



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Salt Lake Field Office
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IN REPLY REFER TO:

3809

U-72297

(UT-023)

Certified Mail No. - 7007 1490 0000 0216 1738

Return Receipt Requested

FEB 4 2009

RECEIVED

FEB 05 2009

DIV. OF OIL, GAS & MINING

DECISION

Mr. William Bown	:	43 CFR 3809.601(a)
Bonneville Quarries,	:	Inc. Noncompliance Order
842 West 400 North	:	
West Bountiful, Utah 84087	:	

Noncompliance Order

For Failure to Submit a Reclamation Plan and Schedule, or a
Plan of Operations for the Continuation of Milling and
Associated Mill Site Activities Conducted Under an Expired Notice UTU-72297

On February 1, 2007, Bonneville Quarries Inc. received a certified letter from this office informing you that your Notice UTU-72297 located in Section 31, T. 13 N., R. 13 W. had expired on January 22, 2007 in accordance with 43 CFR 3809.333. In that letter it stated that all mill site and mill site occupancy activities must cease immediately and that the only activity currently permitted are those related to reclamation of the surface disturbance associated with your mill site operations.

That letter gave you 30 days to submit a reclamation plan and schedule for the final reclamation of the surface disturbances associated with your mill site activities, or submit a Plan of Operations (Plan) if you intend to continue your mill site activities at this location.

Several surface compliance inspections have been conducted at your mill site UTU-72297 since February 2007, and it has been noted that palleted rock, waste rock, equipment, trailers, vehicles and debris are still present two years after the above mentioned letter was received by you or a Bonneville Quarries representative.

As of the date of this Noncompliance Order (order), the Bureau of Land Management, Salt Lake Field Office (BLM) has yet to receive a reclamation plan and schedule for the final reclamation of your surface disturbance, or a Plan to continue mill site activities.

You have 30 days from the receipt of this order to submit a reclamation plan and schedule or a Plan to continue mill site activities. If you fail to submit either of the plans, the BLM may take further actions as per 43 CFR §3809.604 and §3809.700.

If you do not agree and are adversely affected by this decision, in accordance with 43 CFR 3809.804, you may have the Utah BLM State Director review this decision. If you request a State Director review, the request must be received in the Utah BLM State Office, P.O. Box 45155, Salt Lake City, Utah 84145-0155, no later than 30 calendar days after you receive this decision. A copy of the request must also be

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sent to this office. The request must be in accordance with the provisions provided in 43 CFR 3809.805. If a State Director review is requested, this decision will remain in effect while the State Director review is pending, unless a stay is granted by the State Director. Standards for obtaining a stay are given below. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted. If the Utah State Director does not make a decision on whether to accept your request for review of this decision within 21 days of receipt of the request, you should consider the request declined and you may appeal this decision to the Interior Board of Land Appeals (IBLA). You then have 30 days in which to file your notice of appeal with the IBLA (see procedures below).

If you wish to bypass the State Director review, this decision may be appealed directly to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4 and the enclosed Form 1842-1. If an appeal is taken, your notice of appeal must be filed in the Salt Lake Field Office within 30 days of receipt of this decision. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition pursuant to regulations 43 CFR 4.21 for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of this notice of appeal and petition for a stay must also be submitted to each party named in the decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

1. The relative harm to the parties if the stay is granted or denied,
2. The likelihood of the appellant's success on the merits,
3. The likelihood of immediate and irreparable harm if the stay is not granted, and
4. Whether the public interest favors granting the stay.

If you have any questions, or require additional information, please feel free to contact Larry Garahana of my staff at (801) 977-4371.

Sincerely,



Michael G. Nelson
Assistant Field Manager
Nonrenewable Resources

Enclosure: 43 CFR §3809.604 and 43 CFR §3809.700

cc: Lynn Kunzler, UDOGM

Excerpts From 43 CFR §3809 Regulations

§ 3809.604 What happens if I do not comply with a BLM order?

(a) If you do not comply with a BLM order issued under §§3809.601 or 3809.602, the Department of the Interior may request the United States Attorney to institute a civil action in United States District Court for an injunction or order to enforce its order, prevent you from conducting operations on the public lands in violation of this subpart, and collect damages resulting from unlawful acts. This relief may be in addition to the enforcement actions described in §§3809.601 and 3809.602 and the penalties described in §3809.700.

(b) If you fail to timely comply with a noncompliance order issued under §3809.601(a), and remain in noncompliance, BLM may order you to submit plans of operations under §3809.401 for current and future notice-level operations.

[65 FR 70112, Nov. 21, 2000, as amended at 66 FR 54862, Oct. 30, 2001]

§ 3809.700 What criminal penalties apply to violations of this subpart?

The criminal penalties established by statute for individuals and organizations are as follows:

(a) *Individuals.* If you knowingly and willfully violate the requirements of this subpart, you may be subject to arrest and trial under section 303(a) of FLPMA (43 U.S.C. 1733(a)). If you are convicted, you will be subject to a fine of not more than \$100,000 or the alternative fine provided for in the applicable provisions of 18 U.S.C. 3571, or imprisonment not to exceed 12 months, or both, for each offense; and

(b) *Organizations.* If an organization or corporation knowingly and willfully violates the requirements of this subpart, it is subject to trial and, if convicted, will be subject to a fine of not more than \$200,000, or the alternative fine provided for in the applicable provisions of 18 U.S.C. 3571.